

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AUBREY McDANIELS : CIVIL ACTION  
v. :  
MICHAEL W. HARLOW, et al. : NO. 08-4325

O R D E R

AND NOW, this 8<sup>th</sup> day of February, 2010, upon

consideration of the submissions of Aubrey McDaniels filed December 10, 2009 (Doc. 12), to the extent that such submissions were filed in support of a request that the Court find that McDaniels has exhausted state court remedies on the habeas claims raised in his previous habeas petition dismissed February 11, 2009, and after review of the Report and Recommendation of United States Magistrate Judge L. Felipe Restrepo, it is hereby ORDERED that:

1. The Report and Recommendation is APPROVED and ADOPTED;
2. Petitioner's request is DISMISSED without prejudice to McDaniels filing a habeas petition in the appropriate court upon exhaustion of state court remedies.

BY THE COURT:

  
RONALD L. BUCKWALTER, J.